

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

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JEFFREY DENTON, et al., :  
 :  
 Plaintiffs, :  
 vs. : Case No. C-1-02-422  
 : Consolidated with  
 COLUMBIA OLDSMOBILE, INC., : Case No. C-1-02-466  
 et al., : (Volume I)  
 :  
 Defendants. :  
 :  
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Deposition of ROBERT BRAUTIGAM, a  
defendant herein, called by the plaintiffs for  
cross-examination, pursuant to the Federal Rules of  
Civil Procedure, taken before me, Connie Dupps, a  
Registered Professional Reporter and Notary Public  
in and for the State of Ohio, at the offices of  
Lindhorst & Dreidame, 2300 Scripps Center, 312  
Walnut Street, Cincinnati, Ohio, on Thursday, May 1,  
2003, at 10:30 AM.

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<p style="text-align: right;">Page 42</p> <p>1 Q. Okay.</p> <p>2 A. And depending on what dispatch determines</p> <p>3 what that time frame or time period is or should be.</p> <p>4 Q. So the repair tech or whoever is doing the</p> <p>5 work fills it out, what they've done, and then they</p> <p>6 take that when they're finished, what do they do</p> <p>7 with that, this repair order, where does it go?</p> <p>8 A. Turn it back into the dispatcher.</p> <p>9 Q. What happens then?</p> <p>10 A. If there is other jobs on it he puts it up</p> <p>11 on the rack to be dispatched to another</p> <p>12 classification. If the job, if the car, is</p> <p>13 completed and the repairs are finalized and</p> <p>14 completed, he gives it back to the service advisor,</p> <p>15 they bill the ticket and call the customer.</p> <p>16 Q. And when do you become involved in that</p> <p>17 situation, if there's a problem would you become</p> <p>18 involved?</p> <p>19 A. Depending on the circumstance at any point</p> <p>20 in time.</p> <p>21 Q. Well, I mean, the dispatcher can call you,</p> <p>22 serviceman, the repair person, anybody can call you,</p> <p>23 but if you don't get a call you're probably thinking</p> <p>24 it's going pretty smooth?</p>	<p style="text-align: right;">Page 44</p> <p>1 to what you said to him and he said to you.</p> <p>2 A. Initially he come from our sister store</p> <p>3 because he was going to be released from our sister</p> <p>4 store for the job classification that he was hired</p> <p>5 at that store. They had asked me if I had any</p> <p>6 openings and at the point in time I did have for the</p> <p>7 lube rack.</p> <p>8 Interviewed him for that position and for</p> <p>9 the salary, asked him about his driver's license,</p> <p>10 because we run his driver's license, verify records</p> <p>11 for our insurance company, and then agreed on the</p> <p>12 date for him to come to work.</p> <p>13 Q. Anything else you remember?</p> <p>14 A. No.</p> <p>15 Q. Do you remember where the conversation</p> <p>16 took place?</p> <p>17 A. In my office.</p> <p>18 Q. And who did you talk to at the sister</p> <p>19 store that told you that they were releasing Jeff?</p> <p>20 A. Greg Volz.</p> <p>21 Q. Did you confirm anything in writing with</p> <p>22 Mr. Denton when he was hired as to what position he</p> <p>23 did?</p> <p>24 A. With his application and with his payroll</p>
<p style="text-align: right;">Page 43</p> <p>1 A. Exactly.</p> <p>2 Q. And then anybody can call you to get</p> <p>3 involved and then you try to take care of the</p> <p>4 problem?</p> <p>5 A. Exactly.</p> <p>6 Q. And when Jeff Denton started working</p> <p>7 there, what was his classification?</p> <p>8 A. He was hired as a maintenance tech.</p> <p>9 Q. What's that mean?</p> <p>10 A. Just working on the lube rack.</p> <p>11 Q. Did you hire him?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Did you talk to him when you hired him?</p> <p>14 A. Yes, I did.</p> <p>15 Q. Was anybody else present when you hired</p> <p>16 him?</p> <p>17 A. I don't believe there was.</p> <p>18 Q. Did you take any notes of the conversation</p> <p>19 you had with him when you hired him?</p> <p>20 A. I don't recall taking any notes.</p> <p>21 Q. Do you recall the conversation between you</p> <p>22 and Mr. Denton when you hired him?</p> <p>23 A. To an extent.</p> <p>24 Q. Okay. Tell me what your best memory is as</p>	<p style="text-align: right;">Page 45</p> <p>1 slip.</p> <p>2 Q. No letter of employment, he didn't send a</p> <p>3 letter out to you?</p> <p>4 A. No.</p> <p>5 Q. And you don't recall, I take it, at this</p> <p>6 point what Mr. Denton said to you in this meeting?</p> <p>7 A. Said that he would come to work for us,</p> <p>8 that he would work at the job that I had interviewed</p> <p>9 him for.</p> <p>10 Q. Anything else you remember?</p> <p>11 A. At the rate that we had discussed.</p> <p>12 Q. Anything else you remember?</p> <p>13 A. (Shaking head.)</p> <p>14 Q. Did you have the right to hire people in</p> <p>15 your position?</p> <p>16 A. I'm sorry?</p> <p>17 Q. Did you have the right to hire people in</p> <p>18 your position?</p> <p>19 A. Yes, I did.</p> <p>20 Q. Did you have to have those hires approved</p> <p>21 by Mr. Peters or Mr. Stewart?</p> <p>22 A. I'm sorry?</p> <p>23 Q. The people that you hired, before they</p> <p>24 were hired would there have to be an approval by</p>

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1 either Mr. Peters or Mr. Stewart?  
 2 A. No.  
 3 Q. Did you have a right to fire people as  
 4 well?  
 5 A. I did.  
 6 Q. And those terminations, did they have to  
 7 be approved by anyone before they were terminated?  
 8 A. No.  
 9 Q. Did you review Jeff Denton's application  
 10 that he had given to Greg Volz before you hired him?  
 11 A. I did not.  
 12 Q. Did he?  
 13 A. I spoke to Greg Volz about the situation  
 14 for him coming to work -- or wanting to come to work  
 15 up at our store.  
 16 Q. Did you have him fill out a new  
 17 application, Mr. Denton, when you hired him?  
 18 A. I can't recall.  
 19 Q. Did Mr. Denton tell you, tell you,  
 20 anything that was untrue, you found out later was  
 21 untrue at the time that you hired him?  
 22 A. I don't believe so.  
 23 MR. TAMARKIN: Let's take a couple  
 24 minutes.

1 A. Anything outside of the realm of his  
 2 classification.  
 3 Q. And it's your testimony he wasn't assigned  
 4 any of the responsibilities other than basically  
 5 what you testified to?  
 6 A. Right.  
 7 Q. Is there a difference in pay between a  
 8 lube tech and service tech generally?  
 9 A. There's a wide spectrum of difference in  
 10 pay. You can be a service technician also and be  
 11 paid at a different rate, at a lower classification,  
 12 than what a master technician is.  
 13 Q. So the pay that people got that you  
 14 supervise was not based on position, it was based on  
 15 maybe seniority, how they did, and that type of  
 16 thing, it varied, is that what you're saying?  
 17 A. Based on classification, negotiated  
 18 salary, flat rate, and it was based on what their  
 19 expertise, their experience, and their education  
 20 was.  
 21 Q. Okay. And I assume their performance as  
 22 well because they got raises if they were good?  
 23 A. Exactly.  
 24 Q. Do you know -- excuse me. Was the people

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1 (Brief recess.)  
 2 (Mr. Tucker and Mr. Denton left the room.)  
 3 MR. TAMARKIN: Okay. Let's go back on the  
 4 record. Can you read back the last question.  
 5 (The record was read back by the court reporter.)  
 6 Q. Did Mr. Denton during his employment do  
 7 any work which was beyond his classification as a  
 8 lube tech?  
 9 A. No.  
 10 Q. Can you -- was there a written description  
 11 for a lube tech that you're aware of?  
 12 A. No.  
 13 Q. Can you tell me what the responsibilities  
 14 are of a lube tech?  
 15 A. The bases go from an oil and filter  
 16 change, which would consist of topping off fluid  
 17 levels, adjusting tire pressures, routine  
 18 inspections, lubing hinges, things like that, lubing  
 19 the chassis to a minor service interval which also  
 20 entails rotating the tires and performing brake  
 21 inspections.  
 22 Q. What type of things -- what wouldn't he be  
 23 able to do in his category that a service tech would  
 24 do, numerous I guess?

1 getting paid an hourly rate no matter how much work  
 2 they did or were they paid by how much work they  
 3 did?  
 4 A. It depends on what their negotiated  
 5 classification was.  
 6 Q. Jeff Denton, how was he paid?  
 7 A. He was paid on a flat rate basis as well  
 8 as a clock hour basis.  
 9 Q. You better explain that to me because I  
 10 don't understand it.  
 11 A. Flat rate technician, if you do an oil and  
 12 filter change, it pays three-tenths of an hour labor  
 13 in order to perform that duty, which is  
 14 approximately 18 minutes. And if he does it in 12,  
 15 he still gets paid three-tenths of an hour. If he  
 16 does it in 24 minutes, he still gets paid  
 17 three-tenths of an hour.  
 18 And if indeed we were slow at a period of  
 19 time where the volume of business had dropped off  
 20 because of weather, because of the time of year, at  
 21 that point I also had him on a clock hour pay also,  
 22 which was, I believe, \$8.50 an hour. So if he was  
 23 slow and he only turned 20 flag hours in a week's  
 24 time, the balance of those hours that he was there

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1 on the job on his clock hours, the balance of those  
2 hours, I paid him \$8.50 an hour.  
3 **Q. Were other employees paid that way as well**  
4 **that you supervised?**  
5 A. Usually apprentice technicians.  
6 **Q. Was Jeff Denton considered an apprentice**  
7 **technician?**  
8 A. No, but his job classification had -- it  
9 was one of those jobs where it could have it's ups  
10 and downs as far as volume of business, and at that  
11 point we give our maintenance lube technicians  
12 something to fall back on.  
13 In other words, I don't want them there  
14 working 40 to 44 hours a week if they only turn 20  
15 flag hours. Some of my technicians only get the  
16 flag hours they turn, but the maintenance lube  
17 technicians get paid the balance of their clock  
18 hours less their flag hours.  
19 **Q. Okay. Were there --**  
20 A. And the apprentices.  
21 **Q. Were there other lube technicians that**  
22 **would work at the same time as Jeff Denton?**  
23 A. Al Parker.  
24 **Q. Al Parker is an African-American?**

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1 A. Yes, he was.  
2 **Q. Was Al Parker paid the same rate as**  
3 **Mr. Denton at the same time?**  
4 A. Al was part-time when Jeffrey came in. He  
5 was paid flat rate.  
6 **Q. Hourly rate no matter what he did?**  
7 A. Flat rate hours, yes, no matter what he  
8 did, but he was part-time. He worked until 1:00  
9 p.m. in the afternoon.  
10 **Q. Were there any Caucasian lube technicians**  
11 **at the time Jeffrey was there?**  
12 A. At the time Jeffrey was there, no.  
13 **Q. And who replaced Jeffrey as a lube**  
14 **technician after he was separated?**  
15 A. Cedric Rosier, R O S I E R.  
16 **Q. Okay. Is Cedric Rosier an**  
17 **African-American?**  
18 A. Yes, he was.  
19 **Q. How is he paid?**  
20 A. He's paid flat rate and clock hours.  
21 **Q. Same as Jeff?**  
22 A. Yes, at a different rate.  
23 **Q. At a different rate, okay, but same**  
24 **formula?**

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1 A. The same basis, same formula, yes.  
2 **Q. Is Cedric still there?**  
3 A. Yes, he is.  
4 **Q. And did you hire Cedric Rosier?**  
5 A. Yes, I did.  
6 **Q. Did you advertise for a position for lube**  
7 **tech after Mr. Denton was separated?**  
8 A. I can't recall if we advertised or if he  
9 was referred to us. I don't recall offhand.  
10 **Q. Did you interview other people besides**  
11 **Mr. Rosier for that position?**  
12 A. I don't recall offhand.  
13 **Q. At the time that Mr. Denton was working**  
14 **there, the other people that you supervise that**  
15 **actually did work on cars, what were -- were they**  
16 **paid different ways, all those different people,**  
17 **like different people are paid different ways**  
18 **depending on what they negotiated with you?**  
19 A. And their job classification, yes.  
20 **Q. Okay. Let's just take somebody, Jeff**  
21 **Watts, let's just use his name for example, okay,**  
22 **Jeff Watts' classification was a service tech?**  
23 A. Yes.  
24 **Q. Okay.**

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1 A. He was a drivability technician.  
2 **Q. And was he paid differently than**  
3 **Mr. Denton?**  
4 A. Yes.  
5 **Q. How was he paid?**  
6 A. Flat rate.  
7 **Q. Okay. And what about Scott Dick, how was**  
8 **he paid?**  
9 A. He was paid flat rate also. Scott Dick  
10 did have a guarantee though, it was like -- it was  
11 different. Instead of clock hours he actually had a  
12 guarantee because he's an automatic transmission  
13 specialist.  
14 **Q. And what about Mark Fry, how was he paid?**  
15 A. He was flat rate.  
16 **Q. What other employees were paid similar to**  
17 **Mr. Denton, if you can tell me, that worked at the**  
18 **same time he did?**  
19 A. Paid on a similar pay plan, the same type  
20 of formula?  
21 **Q. Yes, the same type of formula.**  
22 A. I know I had to have apprentices there at  
23 the point in time.  
24 **Q. But you don't know who they are?**

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<p style="text-align: right;">Page 54</p> <p>1 A. I can't recall who they would have been.</p> <p>2 Q. Besides apprentices what other people who</p> <p>3 were not apprentices were paid in the same way as</p> <p>4 Mr. Denton and Mr. Parker were?</p> <p>5 (Mr. Denton and Mr. Tucker entered the room.)</p> <p>6 A. In the same formula, none.</p> <p>7 Q. Okay. Were there other employees that</p> <p>8 worked there at the same time as Mr. Denton who were</p> <p>9 not paid a flat rate?</p> <p>10 A. Technicians or employees?</p> <p>11 Q. Technicians, people that you supervised.</p> <p>12 A. There were technicians that were paid flat</p> <p>13 rate that also had a guarantee.</p> <p>14 Q. Okay. Besides them that were not paid a</p> <p>15 flat rate?</p> <p>16 A. No.</p> <p>17 Q. And were any of those African-Americans?</p> <p>18 A. No, there were not.</p> <p>19 Q. Were there any other African-Americans</p> <p>20 that you supervised when Mr. Denton was there other</p> <p>21 than Mr. Tucker, Mr. Denton, and Mr. Parker?</p> <p>22 A. When Jeffrey was there, no.</p> <p>23 Q. And when you interviewed Mr. Rosier, is</p> <p>24 it, for the job after Mr. Denton left?</p>	<p style="text-align: right;">Page 56</p> <p>1 Mr. Denton's EEOC charge?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. And how was Andre Tucker paid when he was</p> <p>4 hired?</p> <p>5 A. Hourly.</p> <p>6 Q. Were there any car lot people or -- well,</p> <p>7 let me ask you this. What was his job when he was</p> <p>8 hired?</p> <p>9 A. He was to wash the service cars, customer</p> <p>10 service cars.</p> <p>11 Q. And did you hire him?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Did you have a conversation with him when</p> <p>14 you hired him?</p> <p>15 A. Yes, I did.</p> <p>16 Q. Do you recall that conversation?</p> <p>17 A. Not right offhand.</p> <p>18 Q. Do you recall what job he applied for?</p> <p>19 A. For the service car wash.</p> <p>20 Q. Do you recall him telling you that he was</p> <p>21 applying for a lube tech position?</p> <p>22 A. No.</p> <p>23 Q. Did Mr. Tucker fill out an application</p> <p>24 when he started working for you?</p>
<p style="text-align: right;">Page 55</p> <p>1 A. (Nodding head.)</p> <p>2 Q. Did you inform him at that point that</p> <p>3 Mr. Denton had filed an EEOC charge at that time?</p> <p>4 A. I did not.</p> <p>5 Q. Do you know if anybody informed him that</p> <p>6 there was an EEOC claim pending?</p> <p>7 A. I don't know for a fact that I was aware</p> <p>8 of the fact that he had filed an EEOC claim at that</p> <p>9 point in time.</p> <p>10 Q. Nobody -- you can't say one way or another</p> <p>11 whether anybody notified you there had been a charge</p> <p>12 filed?</p> <p>13 A. I can't say.</p> <p>14 Q. Is it your testimony that you weren't</p> <p>15 aware of Mr. Denton's first charge of discrimination</p> <p>16 that he filed with regard to the, you know, the</p> <p>17 issue regarding carbon monoxide and him in the room?</p> <p>18 A. With the EEOC?</p> <p>19 Q. Yes.</p> <p>20 A. At the point in time I hired Cedric</p> <p>21 Rosier, no, that's the time frame you're asking.</p> <p>22 Q. So Mr. Stewart, nor Mr. Peters, nor</p> <p>23 Mr. Langenbahn, or anybody else hadn't talked to you</p> <p>24 at that point when you hired Mr. Rosier about</p>	<p style="text-align: right;">Page 57</p> <p>1 A. I'm sure he did.</p> <p>2 Q. Did you review the application probably; I</p> <p>3 mean, is that your normal procedure when you</p> <p>4 interviewed him?</p> <p>5 A. Would be, yes.</p> <p>6 Q. Did he interview with anybody else besides</p> <p>7 you?</p> <p>8 A. No, he did not.</p> <p>9 Q. And did you know at the time that he was</p> <p>10 related to Mr. Denton?</p> <p>11 A. He was referred by Mr. Denton.</p> <p>12 Q. While Mr. Denton was employed by Columbia</p> <p>13 Oldsmobile did you ever hear anybody make any racial</p> <p>14 slurs?</p> <p>15 A. No.</p> <p>16 Q. Never heard Mark Fry, Scott Dick, Jeff</p> <p>17 Watts make any racial slurs?</p> <p>18 A. No.</p> <p>19 Q. Did -- tell me the atmosphere at the --</p> <p>20 where you supervised with regard to playing</p> <p>21 practical jokes on one another at the time that</p> <p>22 Mr. Denton worked there?</p> <p>23 A. They were brought to my attention.</p> <p>24 Practical jokes were something that just about</p>



Jeffrey Denton, et al. vs. Columbia Oldmobile  
May 1, 2003

ROBERT BRAUTIGAM

<p style="text-align: right;">Page 98</p> <p>1 third sentence down in the second paragraph, and 2 read through that and then I want to ask you some 3 questions about it. Have you had a chance to review 4 that paragraph? 5 A. Um-hmm. 6 Q. Okay. Is that an accurate description of 7 what happened on or about February 22nd with regard 8 to the ventilation system? 9 A. No. 10 Q. Okay. Tell me your version, what you 11 understand happened. 12 A. I was over in our Acura store the majority 13 of the day, and it was late in the afternoon, and 14 when I had come back over to the other store I had 15 come in there and Linda Honican came out and told me 16 that Jeffrey was in the break room and was sick from 17 his stomach. 18 And she told me Mark Fry and Jeff Watts 19 had taken a hose and put it over in the break room, 20 started a car up and filled it, the break room, up 21 with smoke and Jeff had come running out. 22 He was already sick from his stomach, and 23 she had him in the cashier's office trying to get 24 him to feel better, find out, you know, what kind of</p>	<p style="text-align: right;">Page 100</p> <p>1 meeting with them. Told them there was going to be 2 a disciplinary action, at that point in time we 3 didn't know to what extent, and that Mr. Peters was 4 going to talk it over with Mr. Stewart and we would 5 let them know at that point what the disciplinary 6 action was going to be. 7 Q. And when you approached Mark Fry and Jeff 8 Watts about this on the day that it occurred, what 9 did they tell you? 10 A. The time line, I'm not 100 percent sure 11 that I talked to them that night, it was late in the 12 day when it happened, and I don't know for a fact 13 that Jeff Watts and Mark Fry were still there. And 14 the following morning is when Jim Peters and myself 15 talked to them. 16 Q. Okay. So it's a little blurry, you're 17 telling me you could have talked to them that day, 18 but you don't have a -- 19 A. I can't remember. I know it was late in 20 the afternoon, but how late that afternoon I don't 21 know. I believe that they were still there. I 22 believe that they were still there because I was 23 pretty mad, went back and asked them what the hell 24 they thought they were doing.</p>
<p style="text-align: right;">Page 99</p> <p>1 shape he was in and that. And I went in and I 2 talked to him and asked him what had happened, asked 3 him if he needed to go home, told him to go ahead 4 and go home, he was sick. 5 And then at that point I went out and 6 talked to Mark Fry and Jeff Watts and asked them 7 what the hell they thought they were doing, and that 8 was based off of conversation from Linda Honican who 9 was our cashier at that time. 10 Q. Anything else that you did that day with 11 regard to this incident? 12 A. Took it to Jim Peters and told him that we 13 had a major incident, that was something that we 14 needed to discipline Mark Fry and Jeff Watts over, 15 and wanted to know what he thought we should do. 16 Q. What did Mr. Peters say? 17 A. He said -- well, at that point in time I 18 believe they were both gone because I don't think 19 Jim was at our store that day, when he got back it 20 was late, it was after 5:00. I told him about it 21 and then he said we need to have a meeting with them 22 the following morning. 23 That following morning we took Mark Fry 24 and Jeff Watts and Jim Peters and myself and had a</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. And you can't remember what they said? 2 A. No. 3 Q. Did they admit to it at that point? 4 A. Yes. 5 Q. Oh, they did admit to it? 6 A. That night or the following morning, I 7 can't really distinguish that time line. Jeffrey 8 had left, he had left to go home. It's, like I 9 said, it was late in the day, so it's difficult to 10 distinguish whether -- what the time line was or 11 whether they were both there still, but we did know 12 that it was them that did it. 13 Q. Was Tom Carey involved? 14 A. No. 15 Q. So Tom Carey -- 16 A. It was never brought to my attention that 17 Tom Carey was ever involved in the smoke in the 18 break room incident. 19 Q. Has that ever happened to any other 20 employees, that type of, since you've been there 10 21 years, that type of incident? 22 A. Not smoke in the break room, no. 23 Q. Well, anything to do with putting an 24 exhaust from a car into some enclosed area?</p>

<p style="text-align: right;">Page 102</p> <p>1 A. Technically not enclosed, but I've seen 2 technicians -- one side of the shop is drivability 3 technicians, right across the shop from them is 4 mechanical technicians, engine mechanical 5 technicians, if they have an engine apart and they 6 put the engine back together, if they start the car 7 up after that it will smoke where antifreeze comes 8 out of the exhaust pipe, and then at a point in time 9 the guys across the shop turn around and they start 10 doing the same thing in retaliation, but it's not 11 enclosed, per say. It's not like this room. 12 Q. Not so much like this where there was a 13 pipe being put in? 14 A. No, no, sir. 15 Q. So nobody has ever done this to a 16 Caucasian employee to your knowledge? 17 A. Not this situation, no, sir. 18 Q. And did you explore with these individuals 19 that did this whether they did it because of 20 Mr. Denton's race or color? 21 A. It wasn't -- I don't think that had become 22 an issue to me because of the fact that the time 23 line that was a prelude to that was a situation 24 where some of the other people there had gotten</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Who else did you talk to? 2 A. Everybody in the shop. We held a shop 3 meeting about people pulling pranks on each other, 4 and it being out of control, and we needed to be 5 there and be productive and not pulling pranks. 6 There was no room in a business environment to pull 7 pranks. 8 Q. Did you interview individual employees 9 about what occurred at the time that the hose was 10 put into the room other than those people you've 11 talked about? 12 A. After the fact, yes. 13 Q. Did you interview Richard Frederick as to 14 what he saw? 15 A. I believe Rocky volunteered what he knew 16 of it. 17 Q. Do you remember what he told you? 18 A. Just what the situation was. Mark and 19 Jeff put a hose in the break room and Jeffrey was in 20 there because he was sick. 21 Q. Did he tell you that they laughed at Jeff 22 and threatened to hit him when he got out, as he 23 puts in his affidavit? 24 A. No.</p>
<p style="text-align: right;">Page 103</p> <p>1 irritated from situations that had been building up 2 over a period of time. 3 Jeffrey would borrow money off of people, 4 borrow tools off of people, borrow cigarettes off of 5 people, and I've had complaints from several of 6 them. I've loaned Jeffrey money myself, not on the 7 frequency that, you know, that other people had told 8 me, that they had gotten tired of him doing that. 9 He would borrow tools and break them and 10 then take them back to them. It was a combination 11 of things that did not leave me in a position to 12 believe it had anything to do with race. It had to 13 do with the fact that there was irritation between 14 the people involved. 15 Q. So your answer is no, you did not approach 16 that subject with them as to whether this was 17 racially motivated? 18 A. Yes, I did not. 19 Q. Did you interview other employees as to 20 what occurred other than what you heard from Linda, 21 the two people who did it, and Jeff? 22 A. Not at the point in time. 23 Q. At any time? 24 A. Afterwards, yeah.</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Did you take notes on these interviews 2 that you had with all of these individuals regarding 3 this incident? 4 A. No. 5 Q. And then what occurred following the 6 meeting you had with Fry and Watts the next day 7 along with Peters, what occurred after that with 8 regard to this incident? 9 A. Mr. Peters went to Mr. Stewart and asked 10 for his advice. 11 Q. And did you take any action yourself or 12 did you leave that to them at that point? 13 A. Left that to them. 14 Q. Were you involved in it in any further 15 way? 16 A. It was a situation that I was involved in 17 as far as their suspensions were concerned. As far 18 as them being suspended at the same time, I asked 19 that that not happen. I asked them to separate the 20 suspensions because they both do the same job in the 21 store, and so I asked that they be suspended at 22 different points in time instead of both of them 23 being suspended at the same time. 24 Q. Did you recommend they be terminated for</p>

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1 this action?  
 2 A. I did not.  
 3 Q. Did anybody recommend they be terminated  
 4 from a management standpoint?  
 5 A. No, reprimanded, suspension, both of them  
 6 are long-term employees. Mark Fry had been with us  
 7 for probably 17 years. Jeff Watts had been with us  
 8 for probably 8 years. And at the point in time I  
 9 pretty much left it up to what my superiors thought  
 10 we should do.  
 11 Q. When -- you're familiar with automobiles,  
 12 that whatever comes out of the exhaust -- when it  
 13 comes out of the exhaust of a car, isn't that carbon  
 14 monoxide that comes out of that exhaust?  
 15 A. Yes, there is.  
 16 Q. So that's the kind of gas that was going  
 17 into the room where Jeffrey was?  
 18 A. Yes, it was.  
 19 Q. And do you have any knowledge of how  
 20 Jeffrey became aware of the fact that this was  
 21 happening?  
 22 A. I don't know. Number one, I still wasn't  
 23 in the store at the time of the incident. When I  
 24 came back and Jeffrey was in the cashier's office

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1 with Linda and she was tending to him; at that point  
 2 in time I did not know how or what the situation  
 3 was. Linda Honican had filled me in on what had  
 4 been done and at that point that's when I became  
 5 aware of what was going on.  
 6 Q. Did you interview Andre as to what  
 7 occurred?  
 8 A. No, I never did. The in-depth interviews  
 9 really didn't seem necessary because when we went to  
 10 them I mean they admitted, they didn't deny what  
 11 they had done. So it was like -- you know, it just  
 12 seemed like we had to deal with a situation where we  
 13 needed to deal with it, and the two people in it had  
 14 already admitted to doing it and at that point it  
 15 was up to us to decide what to do with them.  
 16 Q. And it's your testimony that prior to this  
 17 time Mr. Denton had not complained to you about the  
 18 fact that he was being treated differently because  
 19 of his race?  
 20 A. No.  
 21 Q. And I would like you to look at the last  
 22 sentence -- last two sentences on Plaintiffs'  
 23 Exhibit 5. Are we on 5 or 4?  
 24 MR. LANGENBAHN: 5.

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1 A. Okay. What am I reviewing here on this  
 2 No. 5, what sentence?  
 3 Q. The last couple sentences in the --  
 4 A. I'm a witness to other minorities?  
 5 Q. No, this is on the first page still, the  
 6 three played practical jokes on a lot of people  
 7 including him, but Denton was targeted because of  
 8 his race. Okay. And what I want to ask you is  
 9 what, if you know, what practical jokes did Carey,  
 10 Fry, or Watts play on other people that you're aware  
 11 of as reflected in this statement by Rocky, if there  
 12 are any, there may not be in your opinion?  
 13 A. As far as other employees bringing it to  
 14 my attention?  
 15 Q. Right.  
 16 A. That they had played practical jokes on  
 17 them, no. Hearsay, as far as technicians saying oh,  
 18 did you hear what they did to what's his face, yeah,  
 19 I've heard, but.  
 20 Q. Okay. No complaints to you, but what have  
 21 you heard, I would like to know what you've heard as  
 22 to what was common knowledge that these guys were --  
 23 what other kinds of practical jokes did they play?  
 24 A. I heard for years about the brake cleaner

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1 shot under the stalls and lighting it in the  
 2 restroom.  
 3 Q. And who complained about that?  
 4 A. Nobody has to complain about it. They  
 5 just ask about it. It happened to me at Devcon  
 6 Honda.  
 7 Q. Happened to you?  
 8 A. No, no, not to me. Happened to my  
 9 technicians telling me did you hear what we did to  
 10 what's his face. I had one of the technicians that  
 11 worked for me in my Acura store years ago, I don't  
 12 think you were even there, they charged a capacitor  
 13 and threw it to him and the capacitor discharged  
 14 when it grounded.  
 15 (Off the record.)  
 16 MR. TAMARKIN: Let's go back on the  
 17 record.  
 18 BY MR. TAMARKIN:  
 19 Q. I think we were talking about practical  
 20 jokes on a lot of people, and I was asking you what  
 21 other practical jokes you could remember and I think  
 22 you said nothing specific, but there was around the  
 23 plant you had heard, and you gave me examples then  
 24 of things that happened to you when you worked for



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1 other people.

2 And I want an answer what other practical  
3 jokes do you recall being around the plant or being  
4 around the service shop when you worked for the  
5 Joseph Group?

6 A. They talked about the brake cleaner under  
7 the door and lighting it. Lithium grease was the  
8 joke that just didn't stop with Rocky, I'm not sure  
9 who all was involved in it, but it got to a point  
10 where it was fairly creative. True master  
11 technicians can be extremely creative at times.

12 (Mr. Denton entered the room.)

13 Q. Anything else you can remember that you  
14 can give me specifics about, what the rumors were of  
15 practical jokes?

16 A. About the hot sauce in food. Rocky  
17 brought that to me.

18 Q. Did Jeffrey complain to you about that hot  
19 sauce in food?

20 A. I don't recall that. I remember the bug  
21 incident.

22 Q. Another time did he complain about hot  
23 sauce in food?

24 A. No, I don't recall that.

1 A. Just a period of years of -- no, there is  
2 nothing out there that I can review to refresh my  
3 memory as far as who specifically it happened to.

4 Q. Now, the second page of this document  
5 talks about a picture of a dummy hanging from a  
6 noose. Did you ever see anything like that?

7 A. I've seen the picture when it came to my  
8 attention in some of the stuff that Jay's got.

9 Q. You never seen it before that?

10 A. No.

11 Q. Nobody ever showed it to you?

12 A. No.

13 Q. So the only time you've seen it is after  
14 this lawsuit was filed?

15 A. The one you're speaking in reference of?

16 Q. Yes, Rocky.

17 A. Yes, that's the first time I've been aware  
18 of that.

19 Q. Okay. And you never seen any other -- did  
20 you ever see any nooses being hung up in the plant  
21 at all?

22 A. No.

23 Q. Did you ever see any Barbie dolls being  
24 hung up?

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1 Q. Hot sauce in his donuts, do you remember  
2 him complaining about that?

3 A. I don't recall that. I read it earlier in  
4 the depositions, but I don't recall that.

5 Q. Do you recall Jeffrey complaining to you  
6 about the fact that -- you brought up about this  
7 fire, you know, grease fires or something, did  
8 Jeffrey complain to you about that?

9 A. No, from what I read in the deposition it  
10 was a brake cleaning fire, wasn't that the one under  
11 the stall door?

12 Q. Right. He never complained to you about  
13 that?

14 A. I don't think he ever came to me about it.

15 Q. Did it happen to him?

16 A. Pardon?

17 Q. Did it happen to him?

18 A. I'm not sure it happened to him for a fact  
19 because I wasn't in there, but I know it's happened  
20 to people.

21 Q. But you don't know who?

22 A. Not right offhand, no.

23 Q. Is there something you can review that  
24 would refresh your memory so that you would --

1 A. No.

2 Q. With wires on their necks?

3 A. No.

4 Q. How about did you ever see any Barbie  
5 dolls being burned?

6 A. No.

7 Q. And did Mr. Denton ever complain to you  
8 about that situation?

9 A. I believe that Jeffrey did say something  
10 to me about the doll incident, but I didn't see it  
11 happen. I believe Jeffrey did tell me about it and  
12 I had gone out and I talked to Jeffrey, I was  
13 talking to him about work or something at the point  
14 in time, but I believe Jeffrey did say something  
15 about that to me.

16 Q. The doll incident?

17 A. The doll incident.

18 Q. Okay. Was this before the situation where  
19 the -- the carbon monoxide?

20 A. I don't believe it was. I believe it was  
21 after that.

22 Q. What did he tell you, as best you can  
23 recollect what did Jeff say?

24 A. He told me about the doll incident. I